Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of:		
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	
	)	

Comments of E-Rate Complete, LLC
March 10, 2004

Barbara E. Berkenpas, JD
Erin C. Berkenpas, MSAS

5418 240th Street
Ashton, IA 51232 (Population 469)
(712)724-6104

TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:		
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6

Comments of E-Rate Complete, LLC

March 10, 2004

Forward

E-Rate Complete is submitting comments in response to the FCC's Notice of Proposed Rule Making. Specifically, we are commenting on definition of rural area, consultants and outside experts, competitive bidding and other processes.

E-Rate Complete is an independent E-Rate Consulting organization. We currently work strictly with the E-Rate program. We hesitate to use the term "Consultant". We think of ourselves more as facilitators/administrators of the program. We assist applicants with the administration processes. We do not participate in, nor make recommendations as to, vendor selection. Our clients have experienced the many benefits and frustrations of this important program.

We do not currently work with vendors but wouldn't rule out the possibility. In a situation where a vendor may utilize our services, we would disclose that information to the client/applicants accordingly. Our work with vendors would have limitations so as to not create a conflict situation.

We believe we bring a fresh perspective through these comments as we are located in Rural America (Iowa) and our clients are currently all small rural districts that are primarily located in the Midwest. One thing we are addressing in our comments is the Urban/Rural designation. Most of our clients are districts of less than 5,000 students. We are physically located in a county with a total population of less than 7,000. That's rural.

Urban/Rural Designation

Our definition of rural is: livestock or grain crop in close enough proximity that the presence is known by use of one's senses (primarily see, hear, touch or smell).

While that definition may seem facetious, it may be more logical than amusing. We work with school districts with less than 400 students in grades K-12 in this part of the country that are penalized by the E-Rate program for being in the same county as a community of 80,000 population. These are schools that one cannot possibly visit without realizing how very rural in nature they are.

One of the goals of this program is to attempt to assure that the rural districts do not pay more for eligible services than the urban districts. By penalizing a school district as much as ten percent for being in the same county as an urban district, the goals of the program are not being realized.

We recognize that it would be difficult to implement our definition of Rural without the need for SLD to physically send personnel on a road trip to ascertain the presence of farm livestock and other commodities so will try to apply our logic to other means of defining "rural".

There is no single definition of "rural" that will address and/or define all rural communities. The definition needs to be as broad and all encompassing as possible.

If a single definition is to be used, we recommend that used by The Rural Utilities Services ("RUS") with some modifications. RUS, a division of the United States Department of Agriculture ("USDA") has a long history of commitment to rural areas. RUS has a program under the Rural Broadband Grant and Loan Program. This program defines rural as: "any area of the United States that is not contained in an incorporated city or town with a population in excess of 20,000 inhabitants." 7 U.S.C. 950bb(b)2. Because this definition could potentially allow a very urban suburb to meet the definition, the definition should add the provision that it also must not have a population density higher than 250 persons per square mile.

Consultants and Outside "Experts"

We at E-Rate Complete have encountered questions from applicants as to "schemes" for realizing maximum benefits from the E-Rate program that were presented to them as viable ways to secure maximum funds. These were schemes that were not acceptable methods. In every instance, the applicant had not devised the scheme. It was a product of a vendor, or a "consultant/expert" or both.

What program rules fail to address is the problem of unscrupulous consultants. Ideally there should be a mechanism for limiting the use of "E-Rate Expert" or "E-Rate Consultant" in one's title depending on the credentials of the individual or company. However, logically, that would be inefficient and inconsistent.

And, ideally, at least one person who is a part of the E-Rate Expert's organization should have a minimum of a bachelor's degree. That wouldn't be fair or efficient either.

Some consultants inflate the amount applied for on the Form 471 and use the amount applied for on behalf of a current client as a means to sell the consultant's services to prospective clients. In making the sale, the detail as to how much the applicant actually realized as a result of the inflated request is left out. It makes it difficult to compete for those facilitators/administrators who are adamant that the Form 470 and Form 471 must be as close to accurate as possible.

There should be penalties for consultants/experts who post forms for schools that don't exist.

Consultants and "experts" should be required to register with SLD and or the FCC through a process similar to that required of vendors to obtain and an identification number. That identification number should be required on all forms.

As it is now, consultants/experts who are not listed as a contact on a form cannot be implicated in any wrong doing, whether it be an innocent error or a blatant attempt at raping the system. We've seen all ends of the spectrum.

By requiring that consultants/experts register and acquire an identification number, the work product of the various consultants/experts could be monitored by SLD. Patterns of irregularities and/or abuse could be tracked.

Consultants/experts found to willfully and/or repeatedly violate program rules should be penalized. There must be consequences for program violations that are willful. Whether it is through debarment, imposition of fines or a combination of the two, the violation and penalty should be a matter of public record. As it is now, there are no consequences for unscrupulous self-appointed E-Rate experts.

Competitive Bidding Process and Other Processes

Form 470

Competitive bidding is one of several steps in the process. As it is now, an applicant's Form 470 is posted on the SLD website for a minimum of 28 days. The theory is that this allows all vendors to submit bids for the various products/services being considered by the applicant.

Even though the Form 470 step in the process seems redundant and time consuming in situations where there is only one vendor able to provide the service/product, this step should not be eliminated. Nor should it be eliminated in the case of Priority One services that are ongoing. The posting of the Form 470 is a mechanism for providers to submit bids. It encourages competition. Even if there is no other available vendor it isn't a hardship to complete the Form 470. It forces the applicant to consider adding new services or eliminating those that are not utilized. It

also causes them to consider other options if there are other vendors. It forces them to weigh various factors in determining the final vendor decision.

SLD has made it clear that vagueness is unacceptable. It has stated that the quantity and capacity column in Block 8 of the Form 470 must be something other than "as needed" "district wide" or "school wide" as schools should have an idea as to what they are actually applying for at this stage – within at the very least, a close estimate. Yet, more and more forms are being posted using extremely vague terms. If vagueness is unacceptable, using it should not be allowed. Those forms should be found to be null and void. Those who use this tactic actually are being rewarded because no time or effort is expended with the filing of the form. Vendors have no way of knowing what they are bidding on.

SLD should scrutinize the Form 470s for irregularities. This year several Form 470s were posted that are not only vague but also appear to all be identical. It is hard to believe that several schools would all have the same technology plan and require the exact same services and products.

If the Form 470 indicates that there are RFPs, the RFPs should be filed with the Form 470. Some theorize that it is a good strategy to indicate that there is an RFP even when there is none because it is an extremely simple way to complete a Form 470 and it leaves the door wide open for securing services on the Form 471 that hadn't been considered at the time the Form 470 was filed. There is also the notion that there is ample time to draft an RFP should one be requested during the PIA process.

An unscrupulous consultant as mentioned above, in an attempt to build his/her business, could, at the last minute, post numerous Form 470s for several new clients indicating there are RFPs for all three categories. By doing so, the consultant is giving him/herself more time to gather the necessary information before posting the Form 471. And, the client isn't annoyed by the ongoing questions asked as to what services are being requested. By doing so, there are no limits as to what can be listed on the Form 471 because there are no specifics listed on the Form 470.

The consultant then has time to assist with the drafting of an RFP to model what is being requested on the Form 471.

Form 471

After the Form 470 is posted and the 28 days have passed the applicant can post the Form 471. This is the form that identifies the chosen vendor and the amount being sought for each funding request.

Form 486

The Form 486 is the form that indicates that services have started and/or will start and the applicant is proceeding with the vendor identified on the Form 471.

The Form 486 stage is when the applicant should have to certify to the fact that a relationship has been established with the vendor. This is the stage when the applicant should have to certify that the technology plan has been approved.

There has been too much emphasis recently on contracts especially as to contracts being entered into by the time the Form 471 is filed. If a contract is required, which is

debatable, it should not have to be signed before the Form 486 is submitted since this is stage where the applicants verifies that services have started or will be starting and/or purchases definitely made.

The Form 486 stage is the first time there is a possibility of the exchange of money. This is the critical stage for contracts/legally binding agreements to have been entered into, if actual written contracts should be required at all. Again, that is debatable.

Miscellaneous Including Start Up Schools and More on Vendor Participation

Schools that are "start up" schools should be denied funding if they are not operational by the start of the Funding Year. They should not be handled any less harshly than other districts.

We see increased questionable involvement with vendors being involved in the E-Rate application process. Often times the vendors representative is a sales person. Sales people work on commission. The incentive is to make more profit not to assure that program rules are not violated or stretched to the limits. By continuing to not allow vendor participation, it will help to reduce the potential for abuse.

It's not unusual for someone who is employed as a sales person for a vendor that sells products or services to schools and libraries to encounter the E-Rate program. After a few positive results and minimal experience with the program they view it as a huge marketing tool. They convince the employer to expand the services by focusing more on

the E-Rate program with emphasis on how they can increase sales and revenue through the E-Rate program. When the focus of a vendor is on how they can generate revenue by assisting applicants with the E-Rate process, the intent of the program is potentially lost and the door is opened for possible abuse.

The program rules are correct in requiring that the vendor involvement in the application process be limited. Vendors should not be allowed to complete forms nor should they be allowed to get around this limitation by hiring an outside consultant/expert to participate in the completion of the forms for its customers.

Conclusion

We urge the FCC to seriously consider our comments as those from a rural perspective and as facilitators/administrators of the E-rate program. We make ourselves available for any further questions, comments or requests for input.

Respectfully Submitted by:

E-Rate Complete, LLC
5418 240th Street
Ashton, IA (Population 469)

Barbara E. Berkenpas, JD
Erin Berkenpas, MSAS

March 10, 2004